

1 AN ACT relating to juvenile responsibility.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO  
4 READ AS FOLLOWS:

5 *A person shall not be charged, adjudicated, diverted, or made the subject of a*  
6 *complaint for an offense committed when the person was less than eleven (11) years of*  
7 *age.*

8 ➔Section 2. KRS 600.020 is amended to read as follows:

9 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

10 (1) "Abused or neglected child" means a child whose health or welfare is harmed or  
11 threatened with harm when:

12 (a) His or her parent, guardian, person in a position of authority or special trust, as  
13 defined in KRS 532.045, or other person exercising custodial control or  
14 supervision of the child:

- 15 1. Inflicts or allows to be inflicted upon the child physical or emotional  
16 injury as defined in this section by other than accidental means;
- 17 2. Creates or allows to be created a risk of physical or emotional injury as  
18 defined in this section to the child by other than accidental means;
- 19 3. Engages in a pattern of conduct that renders the parent incapable of  
20 caring for the immediate and ongoing needs of the child including, but  
21 not limited to, parental incapacity due to alcohol and other drug abuse as  
22 defined in KRS 222.005;
- 23 4. Continuously or repeatedly fails or refuses to provide essential parental  
24 care and protection for the child, considering the age of the child;
- 25 5. Commits or allows to be committed an act of sexual abuse, sexual  
26 exploitation, or prostitution upon the child;
- 27 6. Creates or allows to be created a risk that an act of sexual abuse, sexual

1 exploitation, or prostitution will be committed upon the child;

2 7. Abandons or exploits the child;

3 8. Does not provide the child with adequate care, supervision, food,  
4 clothing, shelter, and education or medical care necessary for the child's  
5 well-being. A parent or other person exercising custodial control or  
6 supervision of the child legitimately practicing the person's religious  
7 beliefs shall not be considered a negligent parent solely because of  
8 failure to provide specified medical treatment for a child for that reason  
9 alone. This exception shall not preclude a court from ordering necessary  
10 medical services for a child;

11 9. Fails to make sufficient progress toward identified goals as set forth in  
12 the court-approved case plan to allow for the safe return of the child to  
13 the parent that results in the child remaining committed to the cabinet  
14 and remaining in foster care for fifteen (15) of the most recent twenty-  
15 two (22) months; or

16 10. Continuously or repeatedly fails or refuses to exercise reasonable  
17 diligence in the control of a child ten (10) years of age or younger,  
18 resulting in conduct by the child which, but for his or her age, would  
19 constitute a public offense; or

20 (b) A person twenty-one (21) years of age or older commits or allows to be  
21 committed an act of sexual abuse, sexual exploitation, or prostitution upon a  
22 child less than sixteen (16) years of age;

23 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.  
24 675(11);

25 (3) "Aggravated circumstances" means the existence of one (1) or more of the  
26 following conditions:

27 (a) The parent has not attempted or has not had contact with the child for a period

- 1 of not less than ninety (90) days;
- 2 (b) The parent is incarcerated and will be unavailable to care for the child for a
- 3 period of at least one (1) year from the date of the child's entry into foster care
- 4 and there is no appropriate relative placement available during this period of
- 5 time;
- 6 (c) The parent has sexually abused the child and has refused available treatment;
- 7 (d) The parent has been found by the cabinet to have engaged in abuse of the
- 8 child that required removal from the parent's home two (2) or more times in
- 9 the past two (2) years; or
- 10 (e) The parent has caused the child serious physical injury;
- 11 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
- 12 the reasonable directives of his or her parents, legal guardian, or person exercising
- 13 custodial control or supervision other than a state agency, which behavior results in
- 14 danger to the child or others, and which behavior does not constitute behavior that
- 15 would warrant the filing of a petition under KRS Chapter 645;
- 16 (5) "Beyond the control of school" means any child who has been found by the court to
- 17 have repeatedly violated the lawful regulations for the government of the school as
- 18 provided in KRS 158.150, and as documented in writing by the school as a part of
- 19 the school's petition or as an attachment to the school's petition. The petition or
- 20 attachment shall describe the student's behavior and all intervention strategies
- 21 attempted by the school;
- 22 (6) "Boarding home" means a privately owned and operated home for the boarding and
- 23 lodging of individuals which is approved by the Department of Juvenile Justice or
- 24 the cabinet for the placement of children committed to the department or the
- 25 cabinet;
- 26 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 27 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,

- 1 and who have completed a course of education and training in juvenile detention  
2 developed and approved by, the Department of Juvenile Justice after consultation  
3 with other appropriate state agencies;
- 4 (9) "Child" means any person who has not reached his or her eighteenth birthday,  
5 unless otherwise provided;
- 6 (10) "Child-caring facility" means any facility or group home other than a state facility,  
7 Department of Juvenile Justice contract facility or group home, or one certified by  
8 an appropriate agency as operated primarily for educational or medical purposes,  
9 providing residential care on a twenty-four (24) hour basis to children not related by  
10 blood, adoption, or marriage to the person maintaining the facility;
- 11 (11) "Child-placing agency" means any agency, other than a state agency, which  
12 supervises the placement of children in foster family homes or child-caring facilities  
13 or which places children for adoption;
- 14 (12) "Clinical treatment facility" means a facility with more than eight (8) beds  
15 designated by the Department of Juvenile Justice or the cabinet for the treatment of  
16 mentally ill children. The treatment program of such facilities shall be supervised by  
17 a qualified mental health professional;
- 18 (13) "Commitment" means an order of the court which places a child under the custodial  
19 control or supervision of the Cabinet for Health and Family Services, Department of  
20 Juvenile Justice, or another facility or agency until the child attains the age of  
21 eighteen (18) unless otherwise provided by law;
- 22 (14) "Community-based facility" means any nonsecure, homelike facility licensed,  
23 operated, or permitted to operate by the Department of Juvenile Justice or the  
24 cabinet, which is located within a reasonable proximity of the child's family and  
25 home community, which affords the child the opportunity, if a Kentucky resident, to  
26 continue family and community contact;
- 27 (15) "Complaint" means a verified statement setting forth allegations in regard to the

- 1 child which contain sufficient facts for the formulation of a subsequent petition;
- 2 (16) "Court" means the juvenile session of District Court unless a statute specifies the
- 3 adult session of District Court or the Circuit Court;
- 4 (17) "Court-designated worker" means that organization or individual delegated by the
- 5 Administrative Office of the Courts for the purposes of placing children in
- 6 alternative placements prior to arraignment, conducting preliminary investigations,
- 7 and formulating, entering into, and supervising diversion agreements and
- 8 performing such other functions as authorized by law or court order;
- 9 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 10 (19) "Department" means the Department for Community Based Services;
- 11 (20) "Dependent child" means any child:
- 12 (a) ~~[-]~~ Other than an abused or neglected child, who is under improper care,
- 13 custody, control, or guardianship that is not due to an intentional act of the
- 14 parent, guardian, or person exercising custodial control or supervision of the
- 15 child; or
- 16 (b) Ten (10) years of age or younger who has exhibited conduct which, but for
- 17 the child's age, would be a public offense and is in need of reasonable
- 18 control or supervision;
- 19 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
- 20 conduct subject to the jurisdiction of the court who requires a restricted or closely
- 21 supervised environment for his or her own or the community's protection;
- 22 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
- 23 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
- 24 period of detention prior to adjudication;
- 25 (23) "Diversion agreement" means a mechanism designed to hold a child accountable for
- 26 his or her behavior and, if appropriate, securing services to serve the best interest of
- 27 the child and to provide redress for that behavior without court action and without

1 the creation of a formal court record;

2 (24) "Eligible youth" means a person who:

3 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;

4 (b) Is eighteen (18) years of age to nineteen (19) years of age; and

5 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in  
6 order to participate in state or federal educational programs or to establish  
7 independent living arrangements;

8 (25) "Emergency shelter" is a group home, private residence, foster home, or similar  
9 homelike facility which provides temporary or emergency care of children and  
10 adequate staff and services consistent with the needs of each child;

11 (26) "Emotional injury" means an injury to the mental or psychological capacity or  
12 emotional stability of a child as evidenced by a substantial and observable  
13 impairment in the child's ability to function within a normal range of performance  
14 and behavior with due regard to his or her age, development, culture, and  
15 environment as testified to by a qualified mental health professional;

16 (27) "Evidence-based practices" means policies, procedures, programs, and practices  
17 proven by scientific research to reliably produce reductions in recidivism;

18 (28) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

19 (29) "Foster family home" means a private home in which children are placed for foster  
20 family care under supervision of the cabinet or a licensed child-placing agency;

21 (30) "Graduated sanction" means any of a continuum of accountability measures,  
22 programs, and sanctions, ranging from less restrictive to more restrictive in nature,  
23 that may include but are not limited to:

24 (a) Electronic monitoring;

25 (b) Drug and alcohol screening, testing, or monitoring;

26 (c) Day or evening reporting centers;

27 (d) Reporting requirements;

- 1 (e) Community service; and
- 2 (f) Rehabilitative interventions such as family counseling, substance abuse
- 3 treatment, restorative justice programs, and behavioral or mental health
- 4 treatment;
- 5 (31) "Habitual runaway" means any child who has been found by the court to have been
- 6 absent from his or her place of lawful residence without the permission of his or her
- 7 custodian for at least three (3) days during a one (1) year period;
- 8 (32) "Habitual truant" means any child who has been found by the court to have been
- 9 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a
- 10 one (1) year period;
- 11 (33) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
- 12 public facility, health care facility, or part thereof, which is approved by the cabinet
- 13 to treat children;
- 14 (34) "Independent living" means those activities necessary to assist a committed child to
- 15 establish independent living arrangements;
- 16 (35) "Informal adjustment" means an agreement reached among the parties, with
- 17 consultation, but not the consent, of the victim of the crime or other persons
- 18 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
- 19 after a petition has been filed, which is approved by the court, that the best interest
- 20 of the child would be served without formal adjudication and disposition;
- 21 (36) "Intentionally" means, with respect to a result or to conduct described by a statute
- 22 which defines an offense, that the actor's conscious objective is to cause that result
- 23 or to engage in that conduct;
- 24 (37) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
- 25 the program developed on the child's behalf is no more harsh, hazardous, or
- 26 intrusive than necessary; or involves no restrictions on physical movements nor
- 27 requirements for residential care except as reasonably necessary for the protection

- 1 of the child from physical injury; or protection of the community, and is conducted  
2 at the suitable available facility closest to the child's place of residence to allow for  
3 appropriate family engagement;
- 4 (38) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS  
5 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 6 (39) "Near fatality" means an injury that, as certified by a physician, places a child in  
7 serious or critical condition;
- 8 (40) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 9 (41) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who  
10 has not been otherwise charged with a status or public offense;
- 11 (42) "Nonsecure facility" means a facility which provides its residents access to the  
12 surrounding community and which does not rely primarily on the use of physically  
13 restricting construction and hardware to restrict freedom;
- 14 (43) "Nonsecure setting" means a nonsecure facility or a residential home, including a  
15 child's own home, where a child may be temporarily placed pending further court  
16 action. Children before the court in a county that is served by a state operated secure  
17 detention facility, who are in the detention custody of the Department of Juvenile  
18 Justice, and who are placed in a nonsecure alternative by the Department of  
19 Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 20 (44) "Out-of-home placement" means a placement other than in the home of a parent,  
21 relative, or guardian, in a boarding home, clinical treatment facility, community-  
22 based facility, detention facility, emergency shelter, foster family home, hospital,  
23 nonsecure facility, physically secure facility, residential treatment facility, or youth  
24 alternative center;
- 25 (45) "Parent" means the biological or adoptive mother or father of a child;
- 26 (46) "Person exercising custodial control or supervision" means a person or agency that  
27 has assumed the role and responsibility of a parent or guardian for the child, but that



- 1 does not necessarily have legal custody of the child;
- 2 (47) "Petition" means a verified statement, setting forth allegations in regard to the child,  
3 which initiates formal court involvement in the child's case;
- 4 (48) "Physical injury" means substantial physical pain or any impairment of physical  
5 condition;
- 6 (49) "Physically secure facility" means a facility that relies primarily on the use of  
7 construction and hardware such as locks, bars, and fences to restrict freedom;
- 8 (50) "Public offense action" means an action, excluding contempt, brought in the interest  
9 of a child eleven (11) years of age or older who is accused of committing an  
10 offense under KRS Chapter 527 or a public offense which, if committed by an  
11 adult, would be a crime, whether the same is a felony, misdemeanor, or violation,  
12 other than an action alleging that a child sixteen (16) years of age or older has  
13 committed a motor vehicle offense;
- 14 (51) "Qualified mental health professional" means:
- 15 (a) A physician licensed under the laws of Kentucky to practice medicine or  
16 osteopathy, or a medical officer of the government of the United States while  
17 engaged in the performance of official duties;
- 18 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or  
19 osteopathy, or a medical officer of the government of the United States while  
20 engaged in the practice of official duties, and who is certified or eligible to  
21 apply for certification by the American Board of Psychiatry and Neurology,  
22 Inc.;
- 23 (c) A psychologist with the health service provider designation, a psychological  
24 practitioner, a certified psychologist, or a psychological associate licensed  
25 under the provisions of KRS Chapter 319;
- 26 (d) A licensed registered nurse with a master's degree in psychiatric nursing from  
27 an accredited institution and two (2) years of clinical experience with mentally

- 1 ill persons, or a licensed registered nurse with a bachelor's degree in nursing  
2 from an accredited institution who is certified as a psychiatric and mental  
3 health nurse by the American Nurses Association and who has three (3) years  
4 of inpatient or outpatient clinical experience in psychiatric nursing and who is  
5 currently employed by a hospital or forensic psychiatric facility licensed by  
6 the Commonwealth or a psychiatric unit of a general hospital or a regional  
7 comprehensive care center;
- 8 (e) A licensed clinical social worker licensed under the provisions of KRS  
9 335.100, or a certified social worker licensed under the provisions of KRS  
10 335.080 with three (3) years of inpatient or outpatient clinical experience in  
11 psychiatric social work and currently employed by a hospital or forensic  
12 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a  
13 general hospital or a regional comprehensive care center;
- 14 (f) A marriage and family therapist licensed under the provisions of KRS 335.300  
15 to 335.399 with three (3) years of inpatient or outpatient clinical experience in  
16 psychiatric mental health practice and currently employed by a hospital or  
17 forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit  
18 of a general hospital, or a regional comprehensive care center; or
- 19 (g) A professional counselor credentialed under the provisions of KRS 335.500 to  
20 335.599 with three (3) years of inpatient or outpatient clinical experience in  
21 psychiatric mental health practice and currently employed by a hospital or  
22 forensic facility licensed by the Commonwealth, a psychiatric unit of a general  
23 hospital, or a regional comprehensive care center;
- 24 (52) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.  
25 sec. 675(10);
- 26 (53) "Residential treatment facility" means a facility or group home with more than eight  
27 (8) beds designated by the Department of Juvenile Justice or the cabinet for the

1 treatment of children;

2 (54) "Retain in custody" means, after a child has been taken into custody, the continued  
3 holding of the child by a peace officer for a period of time not to exceed twelve (12)  
4 hours when authorized by the court or the court-designated worker for the purpose  
5 of making preliminary inquiries;

6 (55) "Risk and needs assessment" means an actuarial tool scientifically proven to  
7 identify specific factors and needs that are related to delinquent and noncriminal  
8 misconduct;

9 (56) "School personnel" means those certified persons under the supervision of the local  
10 public or private education agency;

11 (57) "Secretary" means the secretary of the Cabinet for Health and Family Services;

12 (58) "Secure juvenile detention facility" means any physically secure facility used for the  
13 secure detention of children other than any facility in which adult prisoners are  
14 confined;

15 (59) "Serious physical injury" means physical injury which creates a substantial risk of  
16 death or which causes serious and prolonged disfigurement, prolonged impairment  
17 of health, or prolonged loss or impairment of the function of any bodily member or  
18 organ;

19 (60) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions  
20 in which the parent, guardian, person in a position of authority or special trust, as  
21 defined in KRS 532.045, or other person having custodial control or supervision of  
22 the child or responsibility for his or her welfare, uses or allows, permits, or  
23 encourages the use of the child for the purposes of the sexual stimulation of the  
24 perpetrator or another person;

25 (61) "Sexual exploitation" includes but is not limited to a situation in which a parent,  
26 guardian, person in a position of authority or special trust, as defined in KRS  
27 532.045, or other person having custodial control or supervision of a child or

1 responsible for his or her welfare, allows, permits, or encourages the child to engage  
2 in an act which constitutes prostitution under Kentucky law; or a parent, guardian,  
3 person in a position of authority or special trust, as defined in KRS 532.045, or  
4 other person having custodial control or supervision of a child or responsible for his  
5 or her welfare, allows, permits, or encourages the child to engage in an act of  
6 obscene or pornographic photographing, filming, or depicting of a child as provided  
7 for under Kentucky law;

8 (62) "Social service worker" means any employee of the cabinet or any private agency  
9 designated as such by the secretary of the cabinet or a social worker employed by a  
10 county or city who has been approved by the cabinet to provide, under its  
11 supervision, services to families and children;

12 (63) "Staff secure facility for residential treatment" means any setting which assures that  
13 all entrances and exits are under the exclusive control of the facility staff, and in  
14 which a child may reside for the purpose of receiving treatment;

15 (64) (a) "Status offense action" is any action brought in the interest of a child who is  
16 accused of committing acts, which if committed by an adult, would not be a  
17 crime. Such behavior shall not be considered criminal or delinquent and such  
18 children shall be termed status offenders. Status offenses shall include:

- 19 1. Beyond the control of school or beyond the control of parents;
- 20 2. Habitual Runaway;
- 21 3. Habitual truant;
- 22 4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
- 23 5. Alcohol offenses as provided in KRS 244.085.

24 (b) Status offenses shall not include violations of state or local ordinances which  
25 may apply to children such as a violation of curfew;

26 (65) "Take into custody" means the procedure by which a peace officer or other  
27 authorized person initially assumes custody of a child. A child may be taken into

- 1 custody for a period of time not to exceed two (2) hours;
- 2 (66) "Transitional living support" means all benefits to which an eligible youth is  
3 entitled upon being granted extended or reinstated commitment to the cabinet by the  
4 court;
- 5 (67) "Transition plan" means a plan that is personalized at the direction of the youth that:
- 6 (a) Includes specific options on housing, health insurance, education, local  
7 opportunities for mentors and continuing support services, and workforce  
8 supports and employment services; and
- 9 (b) Is as detailed as the youth may elect;
- 10 (68) "Valid court order" means a court order issued by a judge to a child alleged or found  
11 to be a status offender:
- 12 (a) Who was brought before the court and made subject to the order;
- 13 (b) Whose future conduct was regulated by the order;
- 14 (c) Who was given written and verbal warning of the consequences of the  
15 violation of the order at the time the order was issued and whose attorney or  
16 parent or legal guardian was also provided with a written notice of the  
17 consequences of violation of the order, which notification is reflected in the  
18 record of the court proceedings; and
- 19 (d) Who received, before the issuance of the order, the full due process rights  
20 guaranteed by the Constitution of the United States;
- 21 (69) "Violation" means any offense, other than a traffic infraction, for which a sentence  
22 of a fine only can be imposed;
- 23 (70) "Youth alternative center" means a nonsecure facility, approved by the Department  
24 of Juvenile Justice, for the detention of juveniles, both prior to adjudication and  
25 after adjudication, which meets the criteria specified in KRS 15A.320; and
- 26 (71) "Youthful offender" means any person regardless of age, transferred to Circuit  
27 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently

1 convicted in Circuit Court.